



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 9, 2010

Mr. David K. Walker
Montgomery County Attorney
207 West Phillips 1st Floor
Conroe, Texas 77301

OR2010-12008

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394213 (No. 2010-2606).

The Montgomery County Sheriff's Department (the "department") received a request for reports involving a named employee of the department as a responding officer.¹ You state that some of the requested information was the subject of a previous open records letter ruling. You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the information you submitted.

You inform us that the information submitted as Exhibit B-1 was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2009-12181 (2009). You state that we concluded in the previous ruling that the department must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. You do not inform us that there has been any change in the law, facts, and circumstances on which the previous ruling is based. We therefore conclude that the department may continue to rely on our ruling on Exhibit B-1 in Open Records Letter No. 2009-12181. *See* Gov't Code § 552.301(a); Open Records

¹We note that the department sought and obtained clarification of this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You contend that the information submitted as Exhibit C is confidential under section 58.007 of the Family Code, which provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

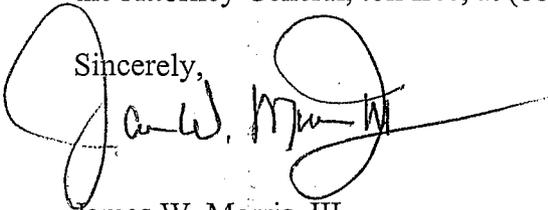
Fam. Code § 58.007(c); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. We find that Exhibit C involves a juvenile suspect. We therefore agree that the department must withhold Exhibit C in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary: (1) the department may continue to rely on our ruling on Exhibit B-1 in Open Records Letter No. 2009-12181; and (2) the department must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 394213

Enc: Submitted documents

c: Requestor
(w/o enclosures)

c: Mr. David Rhodes
P.O. Box 1530
Montgomery, Texas 77356
(w/o enclosures)